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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/674,297	09/29/2003	David Luciani	TUC920030090US1	4108
49080	7590	08/07/2006	EXAMINER	
DALE F. REGELMAN 4231 S. FREMONT AVENUE TUCSON, AZ 85714			RIAD, AMINE	
			ART UNIT	PAPER NUMBER

2113

DATE MAILED: 08/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/674,297

Applicant(s)

LUCIANI ET AL.

Examiner

Amine Riad

Art Unit

2113

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-5 and 7-17 is/are allowed.
- 6) ☒ Claim(s) 18-25 is/are rejected.
- 7) ☒ Claim(s) 6 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 September 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) *AR*
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) *AR*
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

Detailed Action

Claims 1-25 have been presented for examination.

Claims 1-5 and 7-17 have been allowed.

Claims 18-25 have been rejected.

Claim 6 has been objected to.

Objections

Claim **6** recites, "The method of claim **7**, wherein said command execution mode is selected from the group consisting of normal mode, expedite mode, immediate mode, and forced mode." Examiner suggests changing 7 to 5.

Claim **22** recites, "The computer program product of claim **22**, wherein said command execution mode is selected from the group consisting of normal mode, expedite mode, immediate mode, and forced mode." Examiner suggests changing 22 to 21.

Examiner objects to the drawing especially to figure 1, and figure 2. Pages 4-6 of the detailed description describe all the items of figure 1 except 137, 139, 147, 149, 150, 152, and 160. Examiner strongly suggests including the description of the items listed above within the description of figure 1. In addition, page 7 of the detailed description describes all the items of figure 2 except 213, 223, 233, 243, 253, 263, 273, 283, 215, 225, 235, 245, 255, 265, 275, 285, 296, and 298. Examiner strongly suggests including the description of the items listed above within the description of figure 2.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 18-25 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

The language of the claims raise a question as to whether the claims are directed merely to an abstract idea that would not result in a practical application producing a concrete, useful, and tangible result to form the basis of statutory subject matter under 35 U.S.C. 101.

In summary, claims 18-25 recite "A computer program product usable with a programmable computer processor having computer readable program code embodied therein for" The recited invention is computer software per se. A computer program is merely a set of instructions capable of being executed by a computer. The computer program itself is not a statutory process in that it does not include the computer readable medium needed to realize the functionality of the computer program. Thus as currently recited, claims 18-25 are directed to an abstract idea that does not produce a concrete, useful and tangible result.

Examiner strongly suggests the use of "a computer readable medium" language within claims 18-25, and also to put item 152 [computer program product] of figure 1 within item 150 [computer usable medium], and similarly to put item 162 within item 160.

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Contact

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Amine Riad whose telephone number is 571-272-8185.

The examiner can normally be reached on 8-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Beausoliel can be reached on 571-272-3645. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

AR
Amine Riad
Patent Examiner
8/2/2006


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